

REMARKS/ARGUMENTS:

Claims 1-14 and 16-22 are pending, of which this Amendment changes them all and cancels claim 15. In the Office Action dated February 26, 2004, the Examiner has rejected claims 1-14 and 20-22 as being anticipated by U.S. Patent No. 6,147,975 to Bowman-Amuah (hereinafter, Bowman-Amuah). The Examiner has further rejected claims 15-16 as obvious over Bowman-Amuah in light of U.S. Patent No. 6,490,621 to Forget et al (hereinafter, Forget et al), and claims 17-19 as obvious over the combination of Bowman-Amuah with Forget et al and U.S. Patent No. 6,304,892 to Bhoj (hereinafter, Bhoj). The Examiner further objected to claim 5 as improperly depending from itself.

Applicant herein amends the specification and Figure 5 of the drawings as stipulated and supported at pages 2 and 3 of this paper. The specification is amended at page 8 to reflect substantive claim changes noted below, and is supported at page 12, lines 5-7 and claims 15 and 17 of the specification as filed.

Applicant has herein amended both claims 5 and 6 to depend from claim 4, as their prior dependency from claim 5 appears to have been a transcription error. Applicant has amended each claim except claim 21 to recite in the preamble “SLA contract management” (system or method), to comport with the term “SLA contract” recited in the body of independent claims 1, 20, and 22. This is asserted as a clarifying and not a narrowing amendment in that it more clearly relates the claim body to the preamble. Each independent claim is amended to recite “or might soon not conform” following the pre-existing term “does not conform”. This change is supported at page 12, lines 5-7, and is a broadening amendment in that the claim now encompasses generating an event in anticipation. The resulting alternative claim language is particularly authorized by 2173.05(h), part II. Grammar changes are made to claims 13, 21 and 22 for grammatical correctness. Claim 15 is cancelled and claims 16-18 are amended to depend from claim 1, which now recites the cross-SLA resource manager that now-cancelled claim 15 recited. Claim 9 is amended to recite with more specificity, and finds support at page 22, lines 18-20 of the specification.

The claim changes detailed below are made to more particularly distinguish the claimed invention from the cited art.

Each independent claim is changed to recite, in varying language appropriate to the apparatus/method/program claims, resource allocation that is based at least in part on a financial impact assessment. Support for this change is at claim 15 and the remaining alternatives of claim 17, as well as in the specification at page 13, lines 14-20 (wherein the terms “profit/revenue decrease” and “could also include non-monetary parameters” indicating the business impact assessment comprises a financial impact assessment).

Whereas claim 1, for example, now includes elements of claims 15 (now cancelled) and 17, the prior rejection of claim 17 in light of Bowman-Amuah, Forget, and Bhoj does not appear to apply to amended claim 1. That is at least because claim 17 as rejected recited three alternatives: a management objective and two business assessment values. Neither Bhoj, which was cited in the Office Action as relevant to former claim 17, nor any other reference alone or in combination is seen to teach or suggest the business valuation aspects of claim 17. Bhoj is not seen to teach or suggest that resources may be allocated based on a financial impact assessment to meet resource requests from more than one SMO as now recited in claim 1.

The following example may enlighten the above-asserted difference between the claims and the prior art. Assume two separate SLAs, each with a pending QoS violation, and one excess server that may be employed to prevent one but not both pending violations. Bowman-Amuah, Forget et al, and Bhoj each appear to provide no non-technical criteria to determine which SLA will be complied with and which will be violated in deploying the server, and neither does their combination. If a first SLA imposes a \$10,000 fine for a QoS violation and the second SLA imposes a \$1000 fine, no combination of the prior art is seen to take that disparate financial impact into account. Each pending independent claim allocates the excess server based, at least in part, on an assessment of that disparate financial impact.

As a separate patentable distinction, claim 1 is amended herein to recite that the cross SLA event manager (CSEM) receives events and determines which of a plurality of SLA contracts are affected. This is consistent with the CSEM as described at page 18, lines 13-16 of the application (CSEM handles service level monitoring events and determines

which one or more SLA contracts are affected). While the CSEM is not recited in the remaining independent claims 20-22, similar changes are made in that each of those claims now recite determining which of a plurality of SLAs are affected by received events. Claims 2, 4 and 7 depend from claim 1, and are amended to recite that the SMO take the recited action for its respective SLA contract. Formerly, each independent claim recited “one or more SLA contracts” which may be affected by an event, so the Examiner may have construed a monitoring system that monitored only one SLA contract as within the claims.

Bowman-Amuah describes a hybrid network that includes a Proactive Threshold Manager that forwards service providers an impending breach of contract by sending an alarm to the service provider when a current level of service will miss that stipulated in a service level agreement (SLA). The Office Action notes that Bowman-Amuah teaches, at col. 22, lines 33-37, that management and customers must be provided meaningful and timely performance information across the parameters of the services provided, wherein the aim is to manage service levels that meet specific commitments of the SLA and standard service.

As amended, these claims recite determining which of a plurality of SLA contracts are affected by the events, an aspect that does not appear suggested by any of the cited references either alone or in combination. Rather, each of those references is seen to teach that the Threshold Manager (or similar) is dedicated to a single set of alarm generating thresholds, each of which is determined by the provider based upon a SLA (see, for example, Bowman-Amuah col. 51, lines 31-39 and 61-64; col. 60, lines 31-40 and 53-54). Specifically, Figure 1D-1 of Bowman-Amuah and the related text describes receiving an event, determining a report to be generated, and generating the report. Were there multiple SLA contracts being monitored by the teachings of Bowman-Amuah, determining which SLA contracts were affected by the received event would appear to be a necessary and critical step in proactively fulfilling the management commitment for all of the SLAs. No cited reference is seen to teach or suggest that necessary and critical step.

A CSEM that determines which of a plurality of SLA contracts are affected by events is an important difference over a Threshold Manager that monitors only the provider-

determined thresholds. As in each independent claim, it is the CSEM that matches events to SLAs, enabling compliance with the SLAs to be managed as a group rather than separately and independently. Absent some cross-managing function or entity that monitors events against a plurality of SLAs, a plurality of Threshold Managers each monitoring a separate SLA cannot manage the SLAs as a group. When resources are limited and unable to fill every request, an entity such as the CSEM is necessary to deploy resources efficiently among the plurality of SLAs. This is a patentable distinction apart from basing resource allocation on a financial impact assessment. In a similar vein, a single event may impact more than one SLA contract. Such a circumstance is handled by one embodiment of claim 1 but must rely on two or more separate embodiments of Bowman-Amuah operating in parallel for each separate SLA contract.

For at least the above reasons, each of claims 1-14 and 16-22 are seen to patentably distinguish over Bowman-Amuah, Forget, and Bhoj, or any combination thereof. It is respectfully requested that the Examiner withdraw the claim rejections in light of the amendments and arguments made herein and pass the pending claims to issue. The undersigned representative is available to discuss or clarify any remaining matters via teleconference at the Examiner's discretion.

Respectfully submitted:

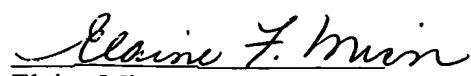

Gerald J. Stanton
Reg. No.: 46,008

June 18, 2004
Date

Customer No. 29683	Phone: (203) 925-9400
HARRINGTON & SMITH, LLP	Facsimile: (203) 944-0245
4 Research Drive	Email: gstanton@hspatent.com
Shelton, CT 06484-6212	

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

6/18/04
Date


Elaine Mian